THE HON'BLE SRI JUSTICE P.S. NARAYANA

WRIT PETITION No.6172 of 1997

Dated: 05.12.2006

Between

S. Bhaskar Rao and two others.

…Petitioners

And

Revenue Divisional Officer &
Land Acquisition Officer, Medak Division,
Medak and another.

…Respondents

THE HON'BLE SRI JUSTICE P.S. NARAYANA

WRIT PETITION No.6172 of 1997

ORDER:

Heard Sri L.Prabhakar Reddy, the learned counsel representing the writ petitioners and the learned Government Pleader for Land Acquisition.

The writ petition is filed for issuance of a writ of *mandamus* directing the respondents to pay compensation in respect of the petitioners' acquired properties together with agricultural Wells which were taken away for the purpose of submergence of Haldivagu project by passing an award under the provisions of the Land Acquisition Act together with equitable rate of interest for the delay in payments by declaring the action of the respondents in not passing the award and not paying the compensation to the petitioners, who were dispossessed on 01.08.1985, as illegal, void and without jurisdiction and pass such other suitable orders.

It is stated that petitioners 1 and 2 are the absolute owners of the land admeasuring Ac.10.00 with agricultural wells situated in Survey No.181 and petitioner No.3 is the absolute owner of Ac.1.10 guntas of land situated in Survey No.152 of Hakeempet Village, Yeldurthy Mandal, Medak District. It is also stated that the said lands were required along with other lands by the second respondent on 03.11.1981 for submergence of Haldivagu Project and a draft notification under Section 4(1) of the Land Acquisition Act, 1894 (hereinafter in short referred to as 'the Act' for the purpose of convenience) and declaration under Section 6 of the Act were published in the Gazettee Part I on 01.08.1985. The aforesaid lands were also notified in the said Gazettee. It is also stated that survey division conducted was recorded by the Assistant Director of Survey and Land Records, Sangareddy on 01.04.1986 and possession of the aforesaid lands has been taken by the Government on 01.08.1985 from the petitioners along with other required land to the extent of 186 square yards. It is also stated that the first respondent initially passed an award on 28.08.1986 *vide* Proceedings No.C/6712/81 and paid

compensation to some of the claimants. At the instance of some other claimants, who approached this Court earlier by way of Writ Petition No.11100 of 1992 and who had obtained orders on 03.09.1992, the Land Acquisition Officer subsequently passed an award paying compensation on 25.08.1985. But, for reasons best known to the petitioners, the authorities have not taken any steps for payment of compensation to the petitioners. Several other factual details also had been narrated and it was stated that the petitioners made several representations in relation thereto and also issued a legal notice. It is further stated that through proceedings No.C/4924/96, dated 20.01.1997, the first respondent issued reply to the legal notice wherein it was admitted that the lands in Survey Nos.181 and 152 were taken over by them and it was also further admitted that the petitioners are entitled to compensation in terms of G.O.Ms.No.1307, dated 23.12.1993 and the petitioners were further informed that action is being taken for resumption of the assigned lands and they will be paid compensation only after resumption proceedings. Several other factual details had been narrated in paragraph Nos.6 and 7 of the affidavit filed in support of the writ petition and a specific stand is taken that the petitioners are entitled to compensation by virtue of G.O.Ms.No.1307, dated 23.12.1993 and also in the light of Article 300 A of the Constitution of India.

The first respondent filed counter affidavit, wherein it was averred that "it is a fact that acquisition of land bearing Sy.Nos.181 and 152 along with other patta lands to an extent of 251-23 acres was requisitioned by the Executive Engineer IDBI., Medak vide his Lr.No.DB/HD-I/LA/HVP/6535/6, dated 3-11-91. The above two Sy.Nos have been verified with reference to the Sub-Division record and requisition and the details are as follows:-

Sy.No.	Area as per Requisition	Area as per S.D.Record	Variation in acres
181	13-39	13-39	-----

152 1-10 1-06 0-04 gts. Less

On verification of the Khasra Pahani 1954-55, the land bearing Sy.No.181 is recorded as K.K. land (Government land) and the remaining land bearing Sy.No.152 is patta land and stands patta in the name of Sri Jogu Muthaiah. The Sy.Nos. mentioned in the petitioner affidavit were deferred from DN and DD schedules and Award proceeding, since the land bearing Sy.No.181 is K.K. land and area not tallied with reference to Sub-Division record in Sy.No.152. Sri Bhaskar Rao and two others further alleged that two wells are existing in Sy.No.181 and DN and DD were published in A.P.Gezette Part-I dated 1-8-1985. As regards wells (2) in Sy.No.181 and publication of DN and DD in Gazette. It is submitted that no wells (2) were existing in Sy.No.181 as reported by the Executive Engineer ID.IB Medak vide Lr.No.DB/HD-I/318/4 pages dated: 8-9-97. The above two Sy.Nos. were not published in A.P.Gazette and not notified. Hence the allegation made by the petitioner is baseless". It was also averred that "it is a fact that Award Proceeding No.C/6712/81 dated 20.08.1996 and paid compensation to the Awardees concerned while deleting these two Sy.Nos. from the award on account of land bearing Sy.Nos.181 as a Government land and area not tallied with reference to the Sub-Division record for Sy.No.152. As per the assigned Rules, the Government has the power to resume the assigned land in favour of the Government at any time. The G.O.Ms.No.470 Revenue (Assignment-I Department) Dt.20.05.1993 which provides that the lands assigned on "D" Form patta acquired and taken over before the issue of G.O.Ms.No.43 Revenue (B) Department dated 23.01.1988 the assignees are entitled to be paid the market value of the land as the resumption of assigned lands for public purpose in not in the nature of compulsory acquisition. This would also mean that such cases will not be entitled to enhancement of market value even compensation is enhanced subsequently by courts in respect of similar patta lands i.e., irrespective of any modification later on by way of enhancement of

compensation by the Civil Courts".

In the counter affidavit, a specific stand was taken that for the lands assigned on "D" form patta acquired and taken over after the issuance of G.O.Ms.No.43 Revenue (B) Department, dated 23.01.1988, the assignees are entitled only to compensation for the variable improvements made on assigned lands. Further specific stand was taken that "subject to the conditions envisaged in G.O.Ms.No.59 Irrigation and PW Department dated 13.03.1980, exgratia can be paid as determined with reference to market value/compensation for the improvement made as the case may be. It is also stated that in the instant case the lands on "D" Form patta are acquired under compulsory acquisition. As such, the assignees are not entitled for exgratia in lumpsum i.e., equivalent to the market value of the similar patta lands. Thus, the question of payment of land compensation to the petitioners 1 and 2 does not arise, since the acquired lands are assigned lands. Action is being taken to initiate the Land Acquisition Proceedings in respect of Sy.No.152 and land compensation will be paid after passing the Award. Thus in action of the Land Acquisition Officer as alleged by the petitioner is not correct".

In paragraph No.6 of the counter affidavit, it was stated that "it is a fact that a legal notice has been issued to this office on 7-10-96 requesting to pay the compensation in respect of acquired lands in Sy.Nos.180, 181, 187 and 152 total admeasuring 13-32 situated at Hakeempet village of Yeldurthy Mandal together with structures as required under the L.A. Act, other wise, his claimants constrained to approach the Hon'ble High Court. In response to the legal notice, an endorsement was issued to Sri V.Pratap Reddy, Advocate on behalf of the claimant vide endorsement No.C/4924/96, dated 20-1-97 stating that Sy.Nos. 181, 152 are covered by the requisition and S.D. record while remaining Sy.Nos.187 and 180 not covered by the requisition and S.D.record. However action is being taken in respect of

Sy.No.152 and for Government land bearing Sy.No.181, action is being taken in terms of G.O.Ms.No.1307 dated 23-12-93."

In paragraph No.7 of the counter, it was further stated that "it is not correct to say that the L.A.O. has not taken any steps in paying the Land Compensation in respect of the Sy.Nos. as mentioned in the petitioner's affidavit. The L.A. proceeding in respect of Sy.No.152 will be initiated shortly. The date of taking over possession are not effected. As such the petitioner never deprived of his right in getting land compensation together with interest. The payment of compensation in respect of Sy.No.181 does not arise since it is a Government land."

Several other factual details also had been narrated and Writ Petition No.6172 of 1997 was also referred to in paragraph No.8 of the counter affidavit.

The learned counsel appearing for the respective parties made certain submissions relating to certain factual details, the existence of the wells, as asserted by the petitioners, and non-existent thereof. It is needless to say that this is a question of fact which may have to be verified. But several other factual aspects appear to be not in serious controversy.

The larger Bench of this Court in **LAO-cum-Revenue Divisional Officer, Chevella Division, Domalaguda, Hyderabad v. Mekala Pandu**[1] while dealing with a similar question, held at paragraph Nos.37 and 38 as hereunder:

> "The policy to assign the Government land is to prevent perpetuation of injustice and feudal order and to prevent concentration of material resources of the community in the hands of chosen few. The assignment of the Government land to the weaker sections of the society is in furtherance of the constitutional obligation imposed upon the State to secure the citizens an adequate means of livelihood. More than 50 per cent of the populatry in India lives in villages and below poverty line. The

> average agricultural holding of a farmer is hardly enough to sustain himself and his large family. The landless labourers who constitute the bulk of village population are deeply mired in poverty. The State in discharge of its obligation to take positive action for creating socio-economic conditions in which there will be an egalitarian social order with social and economic justice to all, tailored its policies and accordingly provided public assistance to the weaker and vulnerable sections of the society by assigning the lands for cultivation purpose as well as for house sites to have a roof over the head. It is a charity, but means to provide general welfare to secure the Blessings of Liberty to one and all. The cornerstone of the land reforms policy is the acceptance of the principle that land must belong to the tiller and exploitation of all sorts must be eliminated.
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> The assignment of land in favour of vulnerable sections of the society was made for the purpose of securing to such sections of the society a life of basic human dignity and in compliance with the directive principles of the State policy. It must follow as a necessary corollary that the assignees acquire the status of constitutional claimants."

In the light of the decision of the larger Bench referred to supra, it is needless to say that the respondents are bound to follow the same and decide the compensation payable to the petitioners in accordance with the said decision specified above. It is also needless to say that the decision of the larger Bench is binding on this Court and in view of the same, this Court is of the considered opinion that the petitioners are bound to succeed. Further, as far as the existence or otherwise of the wells, this question may be verified subject to the above observation.

Accordingly, the writ petition is hereby allowed to the extent indicated above. There shall be no order as to costs.

P.S.Narayana, J

Date: 05.12.2006
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[1] 2004 (2) ALD 451 (LB)